

## **REMARKS**

Claims 1–4 and 9–11 are currently pending in this application. Applicants appreciate the thorough examination as evidenced by the Action of January 5, 2009. In response to the Action, Applicants respectfully request entry of the claim amendments presented herein in view of the accompanying Request for Continued Examination, and further consideration of the present application in view of these amendments and the remarks provided below.

### **Support for Claim Amendments**

The amendments presented above have been made to recite particular features of the inventions so as to expedite the prosecution of the present application to allowance in accordance with the USPTO Patent Business Goals (65 Fed. Reg. 54603, September 8, 2000). These amendments do not represent an acquiescence or agreement with any of the outstanding rejections.

Claims 1, 9 and 18 are amended herein to more particularly point out what Applicants regard as the invention. Support for these claim amendments can be found in the application as filed, particularly on page 10, lines 1 and 2 of the specification. The rejection of the pending claims are discussed hereinbelow.

### **Claim Rejections - 35 U.S.C. § 103**

Claims 1–4 and 9–18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over European Patent Application Publication No. 0 540 932 A1 (“the EP ’932 Publication”). The Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of the invention to use the same material for creating the chambers and the overlaid film. The Examiner submits that the EP ’932 Publication points out that the chambers can be made of polyhydroxybutyric acid and the overlaying film can be made of polyhydroxybutyric acid.

The guidelines for determining obviousness have been outlined in a previously filed paper. As amended herein, the claims are more particularly directed toward a sex pheromone sustained release dispenser, wherein the chambers and membranes of the dispenser are made of

the same material and wherein the material is selected from the group consisting of polyolefin, acrylic, polyester, polyamide, methacrylic and copolymers of olefin and vinyl alcohol ester. The present amendment to the claims more particularly points out that the particular material for the chambers and membranes of the presently claimed sex pheromone sustained release dispenser is a pheromone-permeable material. In contrast, the dispensers of the EP '932 Publication are constructed of both pheromone impermeable and pheromone permeable materials.

Applicants respectfully bring to the attention of the Examiner that starting on the last paragraph of page 3 and continuing through the top of page 4, the EP '932 Publication points out the disadvantages of using dispensers for simultaneously combating two or more pests made of the same material, due to differing release rates of the pheromones that may result. As such, Applicants submit that the disclosures of the EP '932 Publication teach away from the presently claimed sex pheromone sustained release dispenser, in addition to not teaching all the elements of the same. Further, Example 2 as described in the specification exemplifies an embodiment in which different pheromone substances dispensed from pheromone-permeable tubes of the same material are substantially released at substantially the same rate, in contrast to the teachings of the EP '932 Publication discussed above.

In view of the foregoing, Applicants submit that the instant claims are patentable over the disclosures of the EP '932 Publication, and respectfully request that the instant rejection be withdrawn.

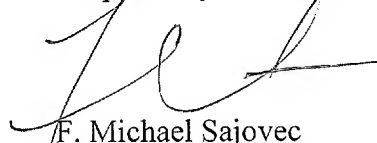
Attorney Docket No. 5576-158  
Application Serial No.: 10/801,229  
Filed: March 16, 2004

### CONCLUSION

Applicants believe that the points and concerns raised by the Examiner in the Action have been addressed in full, it is respectfully submitted that this application is in condition for allowance. Should the Examiner have any remaining concerns, it is respectfully requested that the Examiner contact the undersigned Attorney at (919) 854-1400 to expedite the prosecution of this application to allowance.

A petition for a two-month extension of time is required with the filing of this paper and is filed concurrently herewith. The Commissioner is authorized to charge Deposit Account No. 50-0220 in the amount of \$490.00 fee for a two-month extension of time. This amount is believed to be correct. However, the Commissioner is hereby authorized to charge any deficiency or credit any overpayment to Deposit Account No. 50-0220.

Respectfully submitted,

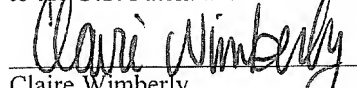


F. Michael Sajovec  
Registration No. 31,793

**Customer Number 20792**  
Myers Bigel Sibley & Sajovec, P.A.  
P.O. Box 37428  
Raleigh, NC 27627  
Phone: 919-854-1400  
Fax: 919-854-1401

#### CERTIFICATION OF ELECTRONIC TRANSMISSION

I hereby certify that this correspondence is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4) to the U.S. Patent and Trademark Office on June 5, 2009.



Claire Wimberly